IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 16641 of 2005(F)

AGAINST THE ORDER IN IA 6123 2004 IN
OS.186/1998 of II ADDL.SUB COURT,ERNAKULAM

.....

PETITIONER:

M/S.PIONEER SHOPPING COMPLEX (P) LTD.,
NOW RE-NAMED AS PIONEER NIRMAN INDIA (P) LTD.,
PLOT NO.1, MARINE DRIVE, ERNAKULAM,
KOCHI-31, REPRESENTED BY ITS MANAGING DIRECTOR,
SATISH K.MITTAL.

BY ADV. SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN

RESPONDENTS:

---

1. MR.SABU KARIKASSERY, AGED 53 YEARS,
S/O.MR.J.THOMAS KARIKASSERY,
KARIKKASSERY HOUSE, MALIPPURAM,
KOCHI-682 511.

2. MOLLY SABU, W/O.SABU KARIKKASSERY,
KARIKKASSERY HOUSE, MALIPPURAM,
KOCHI-682 511.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.SUDHEESH.A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.16641/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PETITION FOR INTERROGATORIES FILED BY THE PETITIOER..

EXT.P2: COPY OF THE COUNTER AFFIDAVIT FILED BY THE 1ST respondent.

EXT.P3: COPY OF THE ORDER DATED 7TH APRIL 2005 ISSUED BY THE TRIAL COURT.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 16641 of 2005

Dated this the 28th day of June 2007

JUDGMENT

Heard Sri.Madhu Radhakrishnan, the learned counsel for the partitioner, who submits that Ext.P3 is a totally non speaking order which has been passed by the learned counsel on an application filed under Order XI Rule 1 & 2 and Section 151 of the Code of Civil Procedure and Sri.K.K.Chandran Pillai for the respondents. Sri. Chandran Pillai, the learned counsel for the respondents may be right in his submission that many of the interrogatories which were sought to be served on the respondents were relevant. But the fact remains that the only reason which is seen assigned by the learned Sub Judge for dismissing the I.A. filed by the petitioner is that there is a direction by this court to dispose of the suit by 30.8.2005. But the submission of the learned counsel for the petitioner that the I.A. was filed as early as in November 2004 is not disputed by

the counsel for the respondents.

Having entertained the I.A. to which objections were filed by the respondents, it was necessary that the learned Subordinate Judge passed a reasoned order. I set aside Ext.P3 on that reason alone and direct the learned Subordinate Judge to hear the parties once again on the I.A. and pass fresh orders. Fresh orders will be passed by the learned Subordinate Judge at the earliest and at any rate with one month of receiving a copy of this judgment.

The writ petition is disposed of as above.

PIUS C. KURIAKOSE,

JUDGE.

Dpk